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Sign up for MAC's eNews

Between the bi-monthly issues of the *State of the Arts*, our staff publishes four separate e-newsletters with opportunities and information:

- Artists' email newsletter
- Arts Educators' email newsletter
- Arts Organizations' email newsletter
- Public Artists' email newsletter

Our eNews contain information that has deadlines that are too short to make the *State of the Arts*. If you'd like to sign-up for one or more of these, please offer us your contact information and what you'd like to receive at: art.mt.gov/resources/resources_soasubscribe.asp or send us an email at: mac@mt.gov.

ARNI'S ADDENDUM

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Legislature's rockin' and rollin'

The Montana Arts Council's budget (HB2) hearing was in mid-January, and I want to thank Michael Blessing of Bozeman, Kristi Niemeyer of Charlo and Jill Roberts of Helena for testifying on behalf of the agency. They did a superb job!

The arts council's budget is proceeding at funding commensurate with the prior biennium, plus what are called "present law adjustments" for inflation and other fixed costs. We are not hearing of any huge problems yet with this, so that's a relief.

The Cultural Trust grants are in HB9. This year there was an enormous drop in interest earnings on the trust, and as a result the amount of money available for grants was about half of what it has been in the past.

People ask, how could this be when the stock market is doing so well? It has to do with how state law defines how the money has to be invested. The Cultural Trust is invested, primarily, in long-term bond funds. As the bonds mature and are sold, new bonds are purchased, and those rates are returning a much lower interest yield than those previously held.

The initial hearing on HB9 was held Feb. 6 in the Long-Range Planning Subcommittee. Many arts and history organizations came in to testify, and they all did a bang-up job in talking about why this grant program is so valuable to the state.

Penny Redli from Columbus is the chairman of the Cultural and Aesthetics Advisory Committee. This group makes grant recommendations to the Legislature in HB9, and she did a superlative job in providing an overview of the program to the legislative committee.

This year, the average grant was \$5,000 (and this is over a two-year period, which means \$2,500 per year). The top grant, currently, is \$10,000. There were \$5.54 in grant dollars requested for every dollar granted. The current funding level is 40% less than what it was 30 years ago.

Over the years, the arts council's funding from the state has remained fairly steady, but 20% cuts in federal funding and the loss of major national arts funders that, in the past, funded Montana cultural organizations, have led to a paucity in cultural organizations' contributed income beyond local and corporate donors and sponsors.

That is why many in the state will be eagerly watching the tourism industry's bed tax bill, SB264, which is announced on the front page of this issue of the paper. This bill could significantly change the face of cultural funding in the state.

Speaking of corporate sponsorships: The 2% rule

We had an interesting email from our friends at the MonDak Heritage Center in Sidney, executive director Kim Simmonds

and administrative assistant LeAnn Pelvit. Kim asked, "We have a sponsor who will be cutting us a check for an event in February. They would like to receive tickets to the event in return for the sponsorship, along with some advertising. LeAnn thought that last year she had read that we could only give them tickets valued up to a percentage of what they donate to us. Do you what the limitations are?"

So, we turned to our friends at the Montana Nonprofit Association. They said that value can be no more than 2% of their donation. This is outlined at www.asacenter.org/Resources/whitepaperdetail.cfm?ItemNumber=12199

We then asked Jim Scheier, our attorney at the Attorney General's office for the State of Montana, about this law and its applicability in Montana. "Based on my research, the IRS's 2% rule is still in effect," he said, and went on to explain:

This means that a Montana tax-exempt organization that receives a "qualified sponsorship payment" has not received income from an unrelated trade or business, and is not subject to taxation for receipt of that amount. A "qualified sponsorship payment" is one where there is no substantial return benefit.

However, if the sponsor receives from the organization complimentary tickets or other goods or services with a value that exceeds 2% of the value of the payment, the organization may be subject to UBIT (Unrelated Business Income Tax) payable to the IRS, unless there is another exemption for the unrelated business income.

Montana's law on taxation of exempt organizations refers to the Internal Revenue Code provisions regarding taxation of those entities if they receive UBIT: (3) Any unrelated business taxable income, as defined by section 512 of the Internal Revenue Code, 26 U.S.C. 512, as amended, earned by any exempt corporation resulting in a federal unrelated business income tax liability of more than \$100 must be taxed as other corporation income is taxed under this title.

An exempt corporation subject to taxation on unrelated business income under this section shall file a copy of its federal exempt organization business income tax return on which it reports its unrelated business income with the department.

Mont. Code Ann. § 15-31-102. Thus, if a Montana exempt organization incurs a UBIT (Unrelated Business Income Tax) liability exceeding \$100, that income will be subject to Montana state income tax to the same extent as other corporate income under Montana law.

These are some scenarios for some definitive examples:

1) If a sponsorship is \$2,000, the maximum comp value of tickets/admissions that could be given to meet the 2% rule would be \$40 before the exempt organization is subject to UBIT.

During the political season: Contact your legislators!

Here's how:

- By phone: 406-444-4800
- Online: Use the online message form at leg.mt.gov/css/Sessions/64th/legwebmessage.asp

• By fax during sessions: House, 406-444-4825; Senate, 406-444-4875

• By mail: A well-written letter is one of the best ways to let your legislator know your thoughts and opinions about a particular issue.

Here are some tips for getting your message across effectively:

Be brief. Legislators have many demands on their time. They appreciate letters that are short and to the point.

Put the message in your own words. Form letters and petitions don't have the same impact as personal, informed opinions.

Address your letter to a specific legislator or legislators. Depending on your message, you may want to write to the sponsor of a bill, certain members of a committee, or your own legislators. Don't address your letter to the entire Legislature.

Identify bills by their number, title, and sponsor. Explain your position on the bill and ask for the legislator's support or opposition. Give any sources of information that you use to make your point.

Include your name, address, and a little about who you are (for example, where you work or what school you attend).

Address letters to:

Senator XXXX, Montana Senate, PO Box 200500, Helena, MT 59620-0500; or Rep. XXXX, Montana House of Representatives, PO Box 200400, Helena, MT 59620-0400

2) If the amount of comp tickets given is worth \$100, then the exempt organization would be liable for \$60 in UBIT to the IRS, but not liable for Montana corporate income tax because it's not more than \$100.

The arts council wasn't sure how many cultural organizations are aware of this limitation, so we're bringing it to your attention. The link at the beginning of this article on sponsorships is helpful in laying out how advertising, naming events, etc. relate to the issue of "substantial or insubstantial value." It also includes other examples that may be helpful.

STATE OF THE ARTS

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Please check with the Montana Arts Council for reprint permission.

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Montana Arts Council members Mark Kuipers and Tom Cordingley join Ron Aasheim from the Montana Department of Fish, Wildlife and Parks to discuss ideas to promote Montana's wildlife artists.